86-1100

NO._____

Supreme Court, U.S.
FILED
MAR 5 1984
JOSEPH F. SPANIOL, JR.
CLERK

IN THE
SUPREME COURT
OF THE UNITED STATES

_____TERM, 19_____

ELBERT WILSON,

PETITIONER,

VS.

INTERNATIONAL OCEAN TRASPORT CORP.,

a/k/a GRAND BASSA TANKERS, INC., AND

INTEROCEAN MANAGEMENT CORP., ET AL,

DEFENDANTS
RESPONDENTS.

PETITION TO THE UNITED STATES SUPREME COURT FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

ELBERT WILSON
RT. I, BOX 312-B
MOSCOW, TEXAS 75960
(409) 398-2803

PETITIONER PRO PER

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

QUESTIONS PRESENTED FOR REVIEW

I.

PETITIONER filed a Motion asking for documents very vital to his case, Medical Records and Ship's Log Books. Motion Denied and signed November 22, 1982.

2.

PETITIONER Constitutional Rights were Denied when Petitioner was Denied the right to notice of Docket Call, and trial day set within a week. Petitioner denied continuance.

3.

PETITIONER Denied the right to be present and the right to know or be represented at the taking of Deposition of Captain J. D. Gaboury.

4.

PETITIONER Denied adequate representation at the taking of Deposition of the Third Mate , Frank Jancowski.

5.

PETITIONER Denied justice when inadequate Counsel refused to notify Eyewitnesses or take Depoitions from anyone that knew anything concerning the case. Said Counsel informed petitioner that if the case went to trial that petitioner was not entitled to trial by a Jury.

6.

PETITIONER Denied an Appeal by the Fifth Circuit Court of Appeals.

7.

PETITIONER Denied Motion for an Extension of Time to file an Appeal by the United States District Court. Petitioner's Appeal had been dismissed just twenty two days when petitioner filed Motion for an Extension of time, not four months as stated in the Court order.

8.

PETITIONER Denied Motion for Writ of Mandamus by the United States Fifth Circuit Court of Appeals.

CERTIFICATE OF INTERESTED PARTIES

THE UNDERSIGNED, Petitioner of Record, certifies that the following listed parties have an interest in the outcome of this case.

DEFENDANTS

INTERNATIONAL OCEAN TRANSPORT CORP., a/k/a GRAND BASSA TANKERS, INC., ET AL.

WEST OF ENGLAND SHIP OWNERS MUTUAL INSURANCE ASSOCIATION (LONDON) LIMITED.

COUNSEL FOR THE DEFENDANTS

HUBERT OXFORD, III.

PETITIONER

ELBERT WILSON

TRIAL COURT

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS, BEAUMONT DIVISION.

APPELLATE COURT

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT.

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NO._____

IN THE

SUPREME COURT

OF THE UNITED STATES

_____TERM, I9_____

ELBERT WILSON PETITIONER,

VS.

INTERNATIONAL OCEAN TRANSPORT CORP.,

a/k/a GRAND BASSA TANKERS, INC., AND

INTEROCEAN MANAGEMENT CORP., ET AL,

DEFENDANTS

RESPONDENTS.

PETITION FOR A WRIT OF CERTIORARI

ELBERT WILSON, petition for writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

I.

JURISDICTION

CONSTITUTIONAL PROVISIONS INVOLVED. This is a case of Admiralty and Matitime Jurisdiction and is an Admiralty and Maritime claim within the meaning of Rule 9 (h). This action filed under special Rule for Seaman.

The relevant portions of the constitution adequately set forth in the petition. Admiralty or Maritime Jurisdiction within the Federal Rules of Civil Procedure. STATUTES 46 U. S. C. A. 688 (Jones Act), 46 U. S. C. A. 666.

STATEMENT OF THE CASE

This is a case of Admiralty and Maritime Jursidiction. On June 2, I983, this case came on for trial in the United States District Court for the Eastern District of Texas, Beaumont Division, Civil Action No. B-80-830-CA. Directed Verdict issued in favor of Defendants.

A.- On June 6, I983, petitioner filed Motion for New Trial. On June IO, I983, Final Judgment were signed. Petitioner did not receive any notice of upcoming trial day and had no reason to believe that notice would come concerning Motion for New Trial. Petitioner waited until the 20th of June, I983, and than filed notice of appeal. (Final Judgment, Appendix Page I-2-3.

PUBLISHER'S NOTE:

The following page is unavailable for filming:

3.

B.- The Supreme Court has held that in Civil and Criminal proceedings alike, notice must be given promptly and with sufficient time, specificity to permit preparation for adequate Trial.

C.- Petitioner's constitutional rights violated when Denied Medical Records and Ship's Log Books. Recorded in Official Log Books,(Title 46 U. S. C. Section 201), every case of illness or injury happening to any member of the crew, with the nature thereof, and Medical treatment.

D.- PETITIONER Denied the right to know of the intention to take Deposition of Captain J. D. Gaoury.(F. R. C.P. Rule 32 (a), 28 U. S. C. A.). For a deposition to be used against a litigant, the litigant must have had the right or opportunity to be present at the taking of said deposition. Petitioner had no knowledge of said deposition until he was ask questions concerning said deposition at time of trial. (See Transcript of Trial Page 20).

E.- Petitioner led to believe that he was not entitled to trial by a Jury, this done by inadequate Counsel. The Seven Amendment to the Constitution of the United States guranatees the right to trial by jury, and this right shall be preserved.

F.- Petitioner Denied Constitutional rights with inadequate Counsel, said Counsel filing petitioner's complaint without the knowledge or consent of petitioner. Violation of the Fourteenth Amendment to the Constitution of the United States, Due Process of Law and Equal Protection of the Law.

G.- Petitioner Denied the right to know of the taking of the deposition of the Third Mate , Frank Jancowski. Attorney knew nothing about ships or how the work is done on them. Attorney did admit this in deposition, (See Deposition Page 28). The deposition was a complete farce, petitioner or adequate Counsel would have proven this at the taking of said deposition. Denied Due Process of Law and Equal Protection of the Law.

H.- Defendants received about six weeks notice of upcoming trial day, petitioner received no notice at all, this did deny petitioner insufficient time to prepare for adequate trial, which did Denied petitioner Due Process of Law and Equal Protection of the Law.

ARGUMENT

This is an Admiralty and General Maritime Action and within (F.R.C.P.). This Action filed under the (Jones Act). That petitioner, without notice were Denied sufficient time and Denied fair justice as guranateed under the Constitution of the United States and Rulings of this Honorable Court. The Court erred when petitioner was not granted a continuance knowing that petitioner had not received any notice of Docket Call. It was impossible to have petitioner's Eyewitnesses without notice of Docket Call, and Trial within a week. The Law firm of Fields & Rosen, New York, N. Y., turned over petitioner's files to two Beaumont, Texas Attorneys without petitioner's knowledge or consent. The relationship between an attorney and the client is personal and the attorney may not assign his responibilities to another lawyer without the client's express or implied consent. Attorneys were inadequate. Attorneys refused to notify any Eyewitnesses, take any depositions from Eyewitnesses or take depositions from Doctors that treated petitioner.

The ethical rules have been interpreted to require the lawyer to explain, in terms the client can understand, what the lawyer is doing in the client's behalf or why he is doing nothing.

Petitioner had no knowledge of the deposition of Captain J. D. Gaboury and has never seen said deposition. Attorney Carl Waldman did withdraw on the17th of Feburary, 1982, one day after taking of said deposition.

Unseaworthy and Negligence
46-U.S.C.A.-688

Ballwanz Vs. Isthmian Lines, Inc., CA. MD. 1963, 319 F.2d 457.

46-U.S.C.A.-688

Kratzer Vs. Capital Marine Supply, Inc., D. C. LA. 1980, 490 F. SUPP. 222, Affirmed 645 F.2d 477.

Defendants refused petitioner Maintenance and Cure from April 17, 1979, until August 13, 1979.

Maintenance and Cure
46-U. S. C. A. -688

Blanchard Vs. Cheramie, C. A. LA. 1973, 485 F.2d 328.

Gaspard Vs. Taylor Diving & Salvage Co., Inc., C. A. LA. 1981, 649 F. 2d 372.

Gajewski Vs. U. S. D. C. N. Y. 1982, 540 F. Supp. 381.

MAINTENANCE AND CURE

46- U. S. C. A.- 666

Seifried Vs. Mon River Towing, Inc., D.C. PA., I974, 388 F. Supp. 233. Court is the Guardian of Seaman and all doubt as to a Seaman's entitlement to Maintenance and Cure must be resolved in favor of the ward of the Admiralty.

Dailey Vs. Alcoa SS Co., D.C. LA. I963, 2I9 F. Supp. 60I, Affirmed 337 F. 2d 6II.

Petitioner has filed this Writ regular since Feb. 29, I984. Petitioner filed a Motion asking this Honorable Court to allow petitioner to proceed on typewritten paper and asking the Honorable Court to Rule on this Writ from the lower Courts records. Petitioner does not know why but this Motion never filed with the Court. This Action filed under Supreme Court Rule for Seaman, 47.2. A seaman suing pursuant to 28 U. S. C. - I9I6 may proceed without prepayment of fees or costs or furnishing security therefor, typewritten papers by separate Motion. Petitioner Denied this Rule.

Petitioner like all other persons, is constitutionally entitled to free access to judicial bodies so long as such petitioning is not utilized for illegal or unconstitutional purposes.

Petitioner rights to the Federal Courts are guaranteed by the right of petition and free speech clauses of the First Amendment, and Due process of Law clause of the Fifth Amendment.

Petitioner's Constitutional Rights has been violated under the First, Fifth, Sixth, Seven and Fourteenth Amendments. The only way petitioner can receive fair justice is for this Honorable Court to grant Certiorari.

CONCLUSION

This case is one involving questions of Substance serious enough in importance to warrant this Court granting Certiorari.

Respectfully Submitted

Elbert Wilson

Elbert Wilson
Rt. I, Box 312-B
Moscow, Texas 75960
(409) 398- 2803

CERTIFICATE OF SERVICE

I HEREBY CERT, that a copy of the above was this the 29th day of February, I984, placed in the United States Mail (CERTIFIED) to Counsel for the Defendants, Hubert Oxford, P. O. Box I50, Beaumont, Texas 77704. United States District Court, Room 2I2, U. S. Federal & Courthouse Bldg., Beaumont, Texas 7770I. United States Fifth Circuit Court of Appeals, 600 Camp Street, New Orleans, Louisiana 70I30.

Respectfully Submitted

Elbert Wilson

I0.

APPENDIX

APPENDIX

MEB:st
06/06/83

FILED
JUNE 13, 1983
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MURRAY L. HARRIS, CLERK
BY
DEPUTY FRANCES CHATMAN

IN THE UNITED STATES DISTRICR COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ELBERT WILSON	*	
	*	
VS.	*	CIVIL ACTION
	*	NO. B-80-830-CA
INTERNATIONAL OCEAN TRANSPORT	*	
CORP., aka GRAND BASSA TANKERS,	*	
INC., et al	*	
	*	

FINAL JUDGMENT

This cause of action came on for trial before the Court on June 2, 1983, and the issues as to negligence under the Jones Act, unseaworthiness under the General Maritime Law, proximate cause, damage, and Plaintiff's claims for maintenance and cure were submitted to the Court, and the Court sitting without a jury, received evidence and heard arguments with respect to these issues and the Court found that the Plaintiff failed to carry it's burden of proof with respect to all issues.

The Court specifically finds that there is no evidence of negligence under the Jones Act, no evidence of unseaworthiness under the General Maritime Law, no evidence of proximate cause of the Plaintiff's injuries, and no evidence of damages. The Court further finds that there is no evidence that the Plaintiff was denied maintenance and cure. Therefore, the Court finds against the Plaintiff and in favor of the Defendants.

It is therefore, ORDERED, ADJUDGED and DECREED that JUDGMENT is hereby rendered for the Defendants and that the Plaintiff take nothing, that his cause of action under the Jones Act and the General Maritime Law, as well as for maintime and cure, be DISNISSED on the merits and that the Defendants, INTERNATIONAL OCEAN TRANSPORT CORPORATION and INTEROCEAN MANAGEMENT CORPORATION, recover of Plaintiff, ELBERT WILSON, theirs costs of action.

The Court determines that thereis no just reason for delay and directs the entry of Final Judgment.

It is therefore, ORDERED, ADJUDGED and DECREED that Judgment is here rendered for the Defendants INTERNATIONAL OCEAN TRANSPORT CORPORATION and INTEROCEAN MANAGEMENT CORPORATION and against the Plaintiff, ELBERT WILSON,

that Plaintiff take nothing, and that Plaintiff's cause of action is hereby DISMISSED WITH PREJUDICE, and that Defendants have their costs.

RENDERED and ENTERED this 10th day of June, 1983

UNITED STATES DISTRICT JUDGE
ROBERT M. PARKER

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
JUNE 24, 1983
MURRAY L. HARRIS, CLERK
BY
DEPUTY FRANCES CHATMAN

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ELBERT WILSON	*	CIVIL ACTION
V.	*	NO. B-80-830-CA
INTERNATIONAL OCEAN TRANSPORT CORPORATION aka GRAND BASSA TANKERS, INC., & INTEROCEAN MANAGEMENT CORPORATION, ET AL	*	

ORDER

ON THIS DAY came on to be heard Plaintiff's Motion for New Trial. After careful review of the record in this case, the Court is of the opinion that the Motion should be Denied.

It is, therefore, ORDERED that the Plaintiff's Motion for New Trial be Denied.

SIGNED and ENTERED this 23rd day of JUNE, 1983

ROBERT M. PARKER
UNITED STATES DISTRICT JUDGE

U. S. COURT OF
APPEALS
FILED
SEPT. 19th, 1983
GILBERT E. GANUCHEAU
CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 83-2381

ELBERT WILSON	*	PLAINTIFF- APPELLANT,
VERSUS	*	
INTERNATIONAL OCEAN TRANSPORT CORPORATION a/k/a GRAND BASSA TANKERS, INC. & INTEROCEAN MANAGEMENT CORPORATION	*	DEFENDANTS-APPELLEES.

Appeal from the United States District Court for the
Eastern District of Texas

Before REAVLEY, RANDALL and WILLIAMS, Circuit Judges.

BY THE COURT:

IT IS ORDERED that the motion of appellee (s) to dismiss the appeal is GRANTED. FEDERAL RULES OF Appellate Procedure, Rule 4 (a) (4).

MOT6A

FILED
U. S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
OCT. 28th, 1983
MURRAY L. HARRIS, CLERK
BY
DEPUTY FRANCES CHATMAN

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ELBERT WILSON	*	
	*	
V	*	CIVIL ACTION
	*	NO. B-80-830-CA
INTERNATIONAL OCEAN TRANSPORT	*	
	*	
CORPORATION a/k/a GRAND BASSA	*	
	*	
TANKERS, INC., & INTEROCEAN	*	
	*	
MANAGEMENT CORPORATION, ET AL	*	

ORDER

Came on for consideration plaintiff Elbert Wilson's Motion for an Extension of Time to file notice Of alleal. This case was tried in June of this year. On June 2, I983, the Court orally directed verdict against plaintiff Wilson. Thereafter on June 7, I983, plaintiff Wilson filed a Motion for a New Trial. The Court entered written judgment on June I3, I983. Subsequently, on June 20, I983, before the Court had ruled on his Motion for New Trial, plaintiff Wilson filed Notice of Appeal prematurely. The Court then entered and order denying plaintiff's Motion for New Trial,

on June 24, 1983. Now, nearly four months later, plaintiff has filed the instant Motion for Extension of Time. Rule 4 of the Federal Rules of Appellate Procedure governs extensions of time for filing notice of appeal, and permits extensions of time provided a written motion is filed within 30 days of the expiration of the 30 day period in which notice of appeal may be filed as a matter of right, Rule 4 (a) (5), Fed. R. App. Proc. Because plaintiff's motion does not comply with this rule the Court is Without jurisdiction to grant his motion;

It is therefore, Ordered that plaintiff's motion for Extension of Time is hereby Denied.

SIGNED and ENTERED this 26th day of October, 1983

ROBERT M. PARKER
UNITED STATES DISTRICT JUDGE

U. S. COURT OF APPEAL.
FILED JAN. 4, 1984
GILBERT E. GANUCHEAU
CLERK

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 83-2754

IN RE:

ELBERT WILSON

Petitioner.

On Petition for Writ of Mandamus to the United States District Court for the Eastern District of Texas

Before REAVLEY, RANDALL and WILLIAMS, Circuit Judges.

BY THE COURT:

IT IS ORDERED that the petition for Writ Of Mandamus is DENIED.

MOT-6E